

RESOLUTION NUMBER 16-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PROVIDING FOR REVISIONS TO THE POLICIES AND PROCEDURES MANUAL FOR THE TOWN COUNCIL; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town Council previously adopted a Policies and Procedures Manual for Town Council and has revised such Manual from time to time; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of Fort Myers Beach that the Town Council amend the existing Policies and Procedures Manual.

IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. Incorporation of Whereas Clauses. The above "Whereas" clauses are hereby incorporated by reference as though fully set forth herein.

Section 2. Adoption of Revised Policies and Procedures Manual. The Policies and Procedures Manual of Town Council, previously adopted by Town Resolution 15-10, which is amended and attached hereto as Exhibit "A" and incorporated by reference, is hereby adopted by the Town Council of the Town of Fort Myers Beach.


Section 3. Effective Date. This resolution shall take effect immediately upon its adoption by the Town Council.

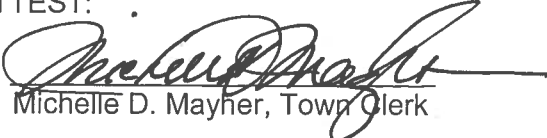
The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Hosafros and seconded by Council Member Cereceda and upon being put to a vote, the result was as follows:

Dennis C. Boback, Mayor aye  
Anita Cereceda aye  
Tracey Gore aye

Summer Stockton, Vice Mayor aye  
Rexann Hosafros aye

DULY PASSED AND ADOPTED THIS 2nd DAY OF MAY 2016, BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By:   
Dennis C. Boback, Mayor

ATTEST:  
By:   
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By:   
Dawn Perry-Lehner, Town Attorney

# EXHIBIT "A"

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## **1. Introduction**

This Town Council Policies and Procedures Manual is for the purpose of helping the Council Members in the discharge of their duties. They are intended to be guidelines, not “rules” on how to conduct business. Town Council may vary from these policies and procedures on a case by case basis by a majority vote. As the Town Council continues to discover situations that are unique to Fort Myers Beach, it will want to update and amend this manual. Experience may show that some of these policies and procedures need to be modified or eliminated and new ones adopted.

By adopting this manual, members of Council will find in one handy reference, answers to policy and procedure questions that come up from time to time. By having an agreed-upon guide, members of Council also may develop common expectations on proper conduct of Council meetings, dealings with the public, and the roles of Town staff and committees.

This manual should be used in conjunction with the Town Charter, Comprehensive Land Use Plan (Comp Plan), Land Development Code (LDC), Code of Ordinances, and the annual budget as necessary. In the event of a conflict between this document and Florida statutes, Town Charter or other Town guiding documents, such other document shall prevail over the language in the Policies and Procedures manual.

## **2. Town Council Mission and Job Description**

### **Mission:**

To legislate and police the powers of the Town, including establishing boards, commissions and committees; to perform all duties and obligations imposed on the municipality by law; to insure by strategic planning and clear policies that the unique and natural characteristics of the island are preserved; to supervise the Town Manager and Town Attorney; to perform all actions for the welfare of the residents, owners, businesspersons, and guests of the Island in adherence to the Town Charter, State and Federal Law.

### **Functions, Powers and Duties:**

- Review and interpret the Comprehensive Plan and conduct public hearings as may be needed in order to make changes
- Review and interpret the Land Development Code and conduct public hearings as may be needed in order to make changes
- Conduct hearings regarding zoning matters
- Introduce and approve Charter Amendments for adoption by referendum
- Appoint a Town Manager
- Appoint a Town Attorney
- Introduce and enact ordinances
- Introduce and adopt resolutions
- Review and adopt the Operations and Capital Improvement budgets
- Review and approve budget amendments
- Create Special Assessment Districts as may be needed
- Establish advisory committees as needed
- Review and approve inter-local agreements
- Review and approve contracts with the Town above the threshold limit allowed to Town Manager
- Elect a Mayor and Vice Mayor
- Perform any other duties that are lawfully defined by the Charter and Florida statutes

Council Member Requirements:

- File a Statement of Financial Interests and Ethics Training (Form 1) with the Lee County Supervisor of Elections every year
- Complete and file Form 1F – Final Statement of Financial Interest, within 60 days of leaving office

**3. How Town Council Will Operate**

Code of Conduct

Recognizing that persons holding a position of public trust are under constant observation, and recognizing that maintaining the integrity and dignity of the public office is essential for maintaining high levels of public confidence in our institutions of government, every member of the Town Council pledges to adhere to the following CODE OF CONDUCT

1. Regularly attend all scheduled meetings of the Town Council as well as special or called meetings relevant to the office
2. Regularly attend all scheduled meetings of outside committees
3. Prepare for each meeting
4. Create a positive environment in meetings of Town Council
5. Maintain an attitude of courtesy and consideration toward colleagues, citizens and staff during all discussions and deliberations
6. Allow citizens, colleagues and staff sufficient opportunity to present their views within the prescribed rules for conduct of meetings of Town Council
7. Avoid the use of abusive, threatening or intimidating language or gestures directed at colleagues, citizens or staff
8. Avoid comments, body language or distracting activity that conveys a message of disrespect and lack of interest
9. Respect all local, state and federal laws, rules and other regulations
10. Submit completed financial disclosure forms to the Lee County Supervisor of Elections by the specified deadline
11. Publicly acknowledge the adopted position when asked about a decision of Town Council
12. Read the Town Comprehensive Plan and follow its directives in all decision-making processes for the Town
13. Follow the procedural and substantive requirements of the LDC

Code of Ethics

Members should ethically serve the public interest by making decisions and taking actions that will enhance the public health, safety and welfare of the region and the citizens served by the Town Council and by promoting public confidence in the integrity, independence, ability and impartiality of Town Council.

1. Members shall not convey the impression that they are in a position to influence the outcome of a decision of Town Council and shall not attempt to use their office to influence or sway the professional staff recommendation.
2. Members shall discharge their duties and responsibilities without favor or prejudice toward any person or group. Members should not allow personal or business relationships to impact upon their conduct or decisions in connection with Town Council business and shall not lend their influence towards the advancement of personal interests or towards the advancement of the interests of friends or business associates.

3. Members shall avoid creating the appearance of impropriety by refraining from engaging in private discussions with the applicant – or their representatives about specific upcoming Town Council agenda items without declaring ex parte communication. If a member receives a private written, telephonic or electronic communication about an agenda item, the member will promptly forward the information to the Town Manager and the Town Clerk, or to the member's Town e-mail account so that it may be shared with all other members and filed with the Town official records to comply with the Public Records Law requirement.
4. Members shall refrain from any private discussion of Town Council business with other members per the requirements of Florida's Government-in-the-Sunshine Law, Chapter 286, Florida Statutes.
5. Members shall not accept or solicit a gift, loan, payment, favor, service, promise of employment or business contract, meal, transportation or anything else of value, if such thing is given with the understanding or possibility that it will influence the official action of the Members during Town Council proceedings. Florida law prohibits the spouse or minor child of that member from soliciting or accepting these as well, and the Member shall be vigilant in ensuring compliance from those family members.
6. Members shall refrain from participation in any proceeding in which their impartiality may reasonably be questioned. A member whose personal employment or business relationship with a person or entity that is subject to a recommendation of Town Council shall seek the advice and counsel of the Town Attorney, if such relationship could conceivably influence the members' impartiality during Town Council discussion of the subject. The provisions of Chapter 112, Florida Statutes and the Code of Ethics for Public Officers and Employees, shall govern conflict of interest determination.
7. Members shall remain vigilant against deviations from Town Council policies and procedures.

As a legislative and quasi-judicial body, Town Council must be ever cognizant of the important legal requirements of due process and equal protection. These principles are derived from the United States Constitution, the Constitution of the State of Florida, and Florida Statutes, the Town Charter, Town code and LDC, and apply to legislative and quasi-judicial actions.

The legal requirement for due process is separated into two prongs: substantive due process and procedural due process. The principle of substantive due process requires the benefits of a given regulation be within the scope of governmental authority, i.e., health, safety, morals, or general welfare, and that the regulations be accomplished in a rational manner, i.e., not be arbitrary or capricious. This is a principle of fundamental fairness in the substance of a given regulatory scheme or provision.

The other due process prong, procedural due process, requires a fair method of adjudicating the rights of property owners, requiring notice and an opportunity to be heard by an impartial decision maker. In legislative matters, this requirement is derived from Florida Statutes, the Town Code and LDC that provide the type and period of notice depending on the nature of the property interest subject to regulation at a public hearing. Quasi-judicial decisions have an underlying Constitutional requirement for procedural due process.

Equal protection limits governmental regulation from establishing irrational classifications, protects the rights of suspect and quasi-suspect classes, and assures against the exercise of fundamental or important rights of persons in ways different from others.

Key overarching principles to keep in mind are that every person must be treated equally and reasonably by the quasi-judicial or legislative substance and process and that decisions and recommendations be deliberated in an open process with adequate notice and allowance for participation of affected parties. Reasonable, consistent, and timely notifications in quasi-judicial matters to be heard by the Town Council

provide an applicant and other parties potentially affected by a requested decision these fundamental protections.

#### Assignment of a Town Council Representative

Town Council may choose to assign a member to lead a project or assess an issue. The Town Council Representative, or often called a "Point Person" may be assigned to do fact-finding and/or research, recommend a course of action and report back to Town Council for direction. Final decisions are made by a majority of Town Council.

#### Sunshine Issues

Members of Town Council and all Town advisory committees, boards and agencies are subject to the Sunshine Law (F.S. 286.011).

This means that any gathering of two or more members of the same advisory committee, board or agency must comply with all the Sunshine Law requirements if they participate in any discussion, directly or indirectly, regarding any matter where there is known or could be foreseeable action taken by communication through a spouse or other go-between.

Town Council members cannot engage in discussions with each other (directly or indirectly) at outside meetings such as the Chamber of Commerce or civic groups regarding any matter on which it is known or foreseeable that action may be taken, unless the Sunshine requirements are met.

These rules apply equally to any gathering, formal or casual, such as a Rotary Club (or other business or fraternal club gathering), fund-raiser, etc. They also apply to social events and functions unconnected to the advisory committee, such as a neighbor's backyard barbecue. They also apply to casual discussions between or among members coming in the door for the committee meeting, at breaks during the meeting, and going out the door after the meeting. Every component of the decision-making process must occur in the Sunshine.

The penalties for violating the Sunshine law are severe and can include criminal and civil sanctions. The process of investigation of Sunshine violations is always unpleasant, embarrassing, and expensive, even if the person is ultimately cleared.

#### Email Policy

Email is a convenient way to communicate with staff, Town Council, Islanders and others. However, it presents unique legal and ethical challenges. All email regarding Town business must be properly retained as a public record. Any email regarding an issue that will come before Council in a quasi-judicial hearing must be properly disclosed as an ex-parte communication as appropriate. Council members must be vigilant to not accidentally violate Sunshine Law requirements. Emailing anyone stating a position on an issue that will come before Town Council is particularly risky. Email actions to avoid include:

1. Sending an email to another Council member with anything that could be construed as a position.
2. Copying another Council member on a response to an email sent by an Islander, staff member or other person.
3. If another Town Council member's email is "accidentally" forwarded to you, respond to the sender recognizing its "accidental" nature, the fact that it is a Sunshine issue and retain a copy of your response.

Florida has a very broad public records law. Most written communications to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure. (This statement must be included in the closing of any email regarding Town business).

#### Public Records

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It is the policy of the State of Florida that municipal records shall at all times be open for personal inspection by any person (s.119.01, F.S.). To that end, the Legislature has enacted the Public Records Law (ch. 119, F.S.), which contains requirements that public records, as defined in s. 119.011, F.S., be

made available for public inspection, they be kept in usable condition, they be kept in safe places, they be kept in convenient places, and copying of records be provided at reasonable costs.

As Council members, our responsibility is to not only be assured that our own public records are properly handled, but also to see that the law is adhered to by all employees of the Town. The Town Clerk has been assigned the responsibility of being the custodian of public records.

Most important is to know what is a “public record” that must be retained even after leaving office. As defined by the Government-in-the-Sunshine Manual, prepared by the Office of the Attorney General, a public record is “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.” Documents of particular note for Council members would be inter-office or intra-office memos and emails. These materials should be made available to the custodian of public records. Emails on the Town servers will be properly retained. Any use of personal email accounts for government business is allowed, but for a Council Person’s own protection, it is suggested that these be copied to their Town email account for proper retention. Materials prepared for Town Council meetings, hearings, minutes and workshop will already be managed by the custodian of public records and do not need to be retained by the Council member. If there are any questions on retention of particular documents, consult with the custodian of public records and/or the Town Attorney before destroying.

#### **4. Training Materials and First Meeting**

##### Training Materials

If requested, the Town Clerk will provide each new member of the Town Council with copies of:

- Town Charter
- Comprehensive Plan
- Land Development Code
- Florida Code of Ethics
- Florida Sunshine and Public Records Laws
- Emergency Operations Plan
- Town Council Policies and Procedures Manual
- Local Planning Agency Policies and Procedures Manual
- Town Personnel Manual
- Town Purchasing and Procurement Manual
- Other materials as determined by the Town Attorney, Town Manager and Town Council members

As part of a Council Person’s orientation, they will be provided a tour of the Town facilities with introductions with all staff members.

##### Training Recommendations

- Successful completion of all courses required by the National Incident Management System (NIMS)
- Florida League of Cities, Inc., Institute of Elected Municipal Officials (IEMO) Basic Course
- Making Good Planning Decisions
- Hands-on Emergency Operations Training
- Other courses as determined by the Town Attorney, Town Manager and Town Council members



### Election of Officers

At the first meeting after the second Tuesday in March, the Council's Mayor and Vice Mayor will be chosen. Each Council member may nominate a person for each of these positions. A second is not required. The voting procedure will be agreed upon in advance.

### Outside Committee Representation

Charlotte Harbor National Estuary Program – [www.chnep.org](http://www.chnep.org)

Meetings: The Policy Committee meets the third Monday every other month at 9:30 am\*.  
Mission: The CHNEP is a partnership that protects the estuaries and watersheds from Venice to Bonita Springs to Winter Haven. This partnership gives citizens, elected officials, resource managers, and commercial and recreational resource users in the 4,700-square mile study area a voice to address diverse resource management concerns including fish and wildlife habitat loss, water quality and water flow. The watershed in the study area includes all or parts of Lee, Charlotte, Sarasota, Manatee, Polk, Hardee and DeSoto counties.

Coastal Advisory Committee – [www.lee-county.com](http://www.lee-county.com)

Meetings: Last Monday of each month at 9:30 am.\*  
Mission: The Council's charge is to advise the Board of County Commissioners, staff and the various related advisory boards when proceeding with a project affecting beach and shoreline preservation regarding the proper methods in helping to conserve the Beaches of Lee County.

Horizon Council – [www.lee-county.com/business](http://www.lee-county.com/business)

Meetings: First Friday of each month\*  
Mission: The Horizon Council is the advisory board to the county commission on economic development issues. This unique public-private partnership is made up of 62 members from government, education, business and community organizations. Established in 1991, the mission of the Horizon Council is to:

- Work toward improving the business environment in Lee County;
- Retain and encourage the expansion of existing businesses; and
- Attract new and diversified employment to the area

Human Services Council – [www.lee-county.com](http://www.lee-county.com)

Meetings: Third Tuesday of each month\*  
Mission: The Council will ensure the efficient delivery of community health and human services through:

- Communication
- Coordination
- Strategic Planning
- Innovation
- Integration and collaboration
- Measurable Outcomes

Metropolitan Planning Organization – [www.mpo-swfl.org](http://www.mpo-swfl.org)

Meetings: Third Friday of each month at 9 am\*  
Mission: The MPO is responsible for conducting a continuing, cooperative, and comprehensive transportation planning process for all of Lee County. It must plan for the movement of both people and goods within the county by all modes of travel – including highways,

public transportation, bicycles, and foot. It also plans for the connections (such as airports, seaports, or bus, railroad, and pipeline terminals) linking these modes or tying us to the rest of the world.

The MPO sets priorities among surface transportation improvement projects within Lee County for state or federal funding. In order for them to be eligible for federal funds, federal law requires that the MPO endorse a transportation improvement program identifying the projects to be done over the next few years.

Southwest Florida Regional Planning Council – [www.swfrpc.org](http://www.swfrpc.org)

Meetings: Third Thursday of each month at 9 am\*

Mission: The Southwest Florida Regional Planning Council is a locally formed regional planning agency serving six counties: Charlotte, Collier, Glades, Hendry, Lee, and Sarasota. Its mission is to protect and improve the region's physical, economic, and social environment. The agency is directed by a thirty-four member Council composed of local elected officials and gubernatorial appointees.

The activities of the Southwest Florida RPC can be classified into three major areas: long range planning, tactical planning and transportation planning.

Estero Bay Agency on Bay Management – [www.swfrpc.org/abm.shtuil](http://www.swfrpc.org/abm.shtuil)

Meetings: Second Monday of each month at 9:30 am\*

Mission: Its directive is to make comments and recommendations regarding the management of Estero Bay and its watershed. The ABM collects and maintains data and it reviews and comments to regulatory agencies on issues affecting the watershed

\*Meeting times are subject to change.

## **5. Town Advisory Committees, Boards and Agencies Standing Advisory Committees**

Council Selection of Advisory Board, Agency and Committee Members:

Residency:

Except as required by Town Charter, Town Ordinance or Florida statute, residency on Fort Myers Beach will not be a requirement for nomination or election to a committee, commission, or board of the Town.

Advertising:

All advisory committees are listed on the Town website. Information included will be the committee mission, current projects, when the committee meets and current members on the committee and whether submission of an annual Form 1 (Financial Disclosure) is required by the Florida Commission on Ethics.

Openings for committees will be listed on the website with a date when applications must be submitted to the Town Clerk for consideration by Town Council. Whenever possible, committee selection will be scheduled 30 days after proper notification. Advertising in local newspapers can be considered if approved by the Town Manager. Committee candidates will be encouraged to appear for interviews during the selection process.

Preliminary matters:

- Council should decide how to go about voting prior to any voting taking place.
- Decide the number of members on committee ahead of time.

Voting:

1. Each Council member picks his selections, marking no more than the total number of seats available (or writes the names down), and initials his ballot.
2. Those receiving the most votes are selected to seats available.
3. If there is a tie for any number of seats still left open, there will be a runoff consisting only of the persons who are tied.

Examples of voting procedure:

First Ballot:

Seats available – 9

Candidates – 15

Votes on First Ballot: Results of First Ballot

3 get 5 votes apiece 3 are elected

3 get 4 votes apiece 3 are elected

4 get 3 votes apiece 4 go on a second ballot

3 get 2 votes apiece 3 are eliminated

2 get 0 votes apiece 2 are eliminated

There would be a second ballot containing only the names of the four candidates who got three votes. Council would vote for three candidates. This process would be repeated in case of a tie until all seats are filled.

A variation on this method of voting is that after the first ballot, if there is a tie which prevents all of the seats from being filled, the runoff would consist of all of the un-selected candidates, not just the ones involved in the tie.

4. The ballots are given to the Town Clerk, who conducts the tallying and announces the results.
5. Once all selections are made, Council adopts a motion containing the new members' names.

Effective Date of Appointment and Follow Up

Newly appointed advisory board, agency and committee members who are required to file a Financial Disclosure Statement, will be notified of the disclosure requirements no later than the date of appointment. The Town Manager is responsible for such notification. These appointments should be made effective as of some future date, so that there is sufficient time to provide the required notification. For convenience, the notice could be accompanied by a copy of the required disclosure forms, which are available from the Supervisor of Elections or on-line from the Florida Commission on Ethics (<http://www.ethics.state.fl.us/>)

Ad Hoc Committees

Town Council has the authority to form ad hoc committees requesting participation by volunteers. Ad hoc Committees can be used at Town Council's discretion to address specialized and or short-term Town issues.

The mission, specific objectives, expected products, membership and timelines of an ad hoc committee should be clearly stated and agreed to by Town Council. One Town Council member will be an ex-officio member of each ad hoc committee. Where possible, an attempt will be made to have a balanced committee membership. Minutes or verbal reports will keep Town Council informed on a regular basis. A final report will document findings and recommendations, and will be presented at a Town Council meeting or workshop.

Ad hoc committees are subject to the public records laws, sunshine laws, quorum and statutory ethical requirements. It is the Town's responsibility to ensure that each committee member is educated on these issues.

Outline of Committee Orientation Material:

- Meeting Requirements
  - o Notice
  - o Location Requirements, such as ADA compliance
  - o Agendas
  - o Quorum
- Sunshine Requirements
- Public Records Requirements
- Statutory Ethical Requirements

## **6. Meeting Preparation and Planning**

### Meeting Schedule

Regular meetings of Town Council may be found on the website calendar. Management and Planning meetings (M&Ps) are work sessions and are scheduled to discuss financial issues for the Town.

Workshops special, continued or rescheduled meetings will be determined by consensus of the Town Council members, the Town Manager and Town Attorney.

### Source of Items

Items for Town Council agendas are generated by requests and/or legislation (ordinances or resolutions) from members of Town Council prepared by the Town Attorney, requests and actions from the Local Planning Agency, continuations from previous council meetings, in addition to anything Council members, the Town Manager or Town Attorney may wish to have included. Some of these inquiries are routine and can be handled by staff because Town Council policy and procedures have been previously approved which apply.

When an item arises that requires Town Council action either to make a decision or to direct staff or the Town Attorney how to proceed it will appear on the agenda identified as a Council member's request or as an item under the Town Manager's section of the agenda which is the "catch all" for miscellaneous items, or Town Attorney's section, as appropriate.

For an item to appear on an agenda, at least two Council members must be in agreement and shall direct the Town Manager to do so, provided time schedules allow. (Note the agenda preparation timetable below). Any material written and distributed by Council members as part of the agenda should be included in Council members' packets – allowing ample time for review. This preserves the integrity of the seated Council, conforms to the Florida Public Records laws and lessens the opportunity for misunderstandings and miscommunication. No significant Town staff or Town Attorney time will be spent on an agenda item requested by an individual Council member without approval by a majority of Council in advance.

Written requests to be placed on a council agenda from the general public should be submitted directly to the Town Manager. Agenda Management is reviewed at each Town Council meeting.

### Timetable and Preparation Process

Absent an emergency or a pressing need, items and any back-up material shall be submitted to the Town Manager by noon of the thirteenth (13<sup>th</sup>) day preceding the next regular Council meeting to be considered for inclusion on the agenda. The Town Manager will work with the appropriate people to finalize the items by 4:00 PM on that day. A draft agenda will then be sent to Town Council for review and comment within 24 hours. The Town Council chair may modify the order of the agenda subject to the approval of the Town Council.

Absent an emergency or pressing need, 12:00 pm on the Wednesday prior to the next regular Council meeting, a packet including the finalized agenda and supporting material will be placed in the Council members' mailboxes and placed on the Town website.

The Council members' packets include complete documentation for agenda items (actions required, implications, backup information, memos, ordinances, resolutions, etc.) A sincere effort is made to see that Council packets are complete; if something is not available, a written explanation will be provided. As a general rule, items requiring documentation (recommendations, memos, ordinances, resolutions, etc.) will not be included on an agenda until the documentation is complete.

The agenda is posted at Town Hall and on the Town website. Meetings may be announced in local newspapers. Hearing notices will be advertised as required by law and may be provided as a service to local newspapers.

Occasionally an item comes up late and may be placed on an amended agenda, or as an "add on" (added too late to be included on the published agenda). Such additions should be an exception.

#### Length of Agenda Items

In order to set reasonable agendas, the Town Manager shall use best efforts to establish the time needed for presentations, public comment and subsequent discussions of agenda items. Any person submitting topics to the Town Manager shall provide an estimate of the time needed. If the time needed for a hearing, legislative matter or administrative topic exceeds the allotted time by more than 15 minutes, the Chair may table the item until later in the meeting or continue the item until a subsequent meeting upon approval of Council. Town Council members should be cognizant of time limits and act appropriately.

#### Continued Hearings and Legislative Issues

It is the goal of the Town Council to complete a hearing during the scheduled meeting. If additional time is required and the hearing must be continued to a later date, any Town Council member who missed the initial hearing should attempt to review the DVD prior to participating in the continued hearing or legislative discussion and resolution.

If the applicant submits new information or modification(s) to previously submitted information at the hearing, or immediately prior to the hearing, the Town Council shall consult with the Town Manager and the Town Attorney to determine if a continuance of the hearing is appropriate and proceed accordingly. Nothing contained in this section shall be construed to limit the Director's discretion to defer or continue the public hearing as set forth in LDC Section 34-213(3).

#### Attendance Policy

The Charter states: "A member of Council may forfeit the office, if the member: (d) Misses three consecutive regularly scheduled council meetings without an excused absence." This statement recognizes that because of the significant meeting preparation required by staff, applicants and other supporting personnel, it is important that a quorum of the Town Council members be present for all noticed meetings. The Town Manager should be notified of a planned Council member's absence as soon as known. The Town Manager or designee will notify the Town Attorney and Mayor. It is important that the Town Council know that it will have a quorum of its members prior to notification of a meeting/hearing. Work session attendance is equally important because they are where information is shared and issues resolved before putting the item on an agenda of a regular meeting for a vote.

#### Participation by Videoconference

A Council member may participate in a Town Council meeting via videoconference if one of the following conditions is met:

1. There is a medical reason for unavailability, or
2. Permission is granted from the Council for an "extraordinary circumstance." A quorum of Town Council members must be met without the missing Council member in attendance.

## 7. Meeting Procedures

### Order of Agenda Items

1. Generally the agenda will proceed in the following order:
2. Call to Order
3. Invocation
4. Pledge of Allegiance
5. Approval of Final Agenda
6. Proclamations, Recognitions and Awards
7. Public Comment (Any issue can be discussed, but if an agenda item is addressed, the speaker cannot comment at the time such agenda item comes up. For testimony to be considered for a public hearing, it must be made during the hearing).
8. Approval of Minutes
9. Consent Agenda
10. Advisory Committee Items and Reports
11. Public Hearings of proposed ordinances (At conclusion of hearing, requires motion and roll call vote)
12. Administrative Agenda
  - a. Introduction of proposed ordinances (Requires a motion and a majority vote for scheduling the hearing).
  - b. Resolutions (Requires a motion and vote for passage)
  - c. Unfinished business (Items from previous agendas scheduled by Town Manager – should be listed separately on the agenda)  
New business (Scheduled by the Town Manager, should be listed separately)
13. Final Public Comment (not limited to agenda items)
14. Town Manager's Items and Reports
15. Town Attorney's Items and Reports
16. Council Members Items and Reports
17. Agenda Management (generally addressed during Council work sessions)
  - a. Topics for upcoming regularly scheduled meetings
  - b. Planning and scheduling of Management and Planning, and other work sessions
18. Review New Actions from Meeting
19. Adjournment (Requires a motion and vote – no second is required. It is a privileged motion allowing no discussion before vote)

### Conduct of Council Meetings

The Mayor will conduct Council meetings, and in the Mayor's absence the Vice Mayor will do so.

The Town Clerk shall deliver a nondenominational invocation.

Robert's Rules of Order shall be the reference for parliamentary procedure governing the conduct of Town Council meetings when not in conflict with the Town Charter, Town Ordinances or Florida Statutes. It is not intended that Council meetings be unnecessarily formalistic, but rather that parliamentary procedure will be invoked only when necessary to facilitate the business of the meeting.

All participants and audiences at Town Council meetings are expected to exhibit common courtesy and proper decorum. No personal attacks will be tolerated. The Chair may request that someone who is being disruptive be removed from chambers.

Individuals wishing to speak during the Public Comment times are requested to (1) fill out an index card (available in the meeting room) indicating their name and the topic they will address and (2) give that card to the Clerk prior to the start of the meeting. When recognized by the Chair, the speakers will advance to the podium and state their name for the public record. Public Comments will generally be limited to three minutes per speaker. The Chair may modify the three-minute limit with approval by vote of the Council. The Public Comment times are intended as opportunities for interested parties to present their viewpoints to the Council members. They are not intended as question-and-answer sessions or as dialog with the Council. Response to questions and/or clarifications requested during public comment may, with the approval of Town Council, be answered immediately if there is a straight-forward, short answer, directed to the appropriate person for response at a later time or placed on an agenda for a future Council meeting.

After a proper motion and second, discussion by the Council members shall be limited to agenda items with expression of ideas, facts and conclusions. No member will speak twice on the item until all others who want to speak have spoken.

The time period for Council members comments is intended as an opportunity for Council members to share their viewpoints with each other. Since this opportunity does not exist outside of Council meetings under the Florida Sunshine Law, this is the primary purpose of this time and it generally should not be used to obtain information from the Town Manager or Town Attorney, which could be obtained outside of the Council meeting. It is intended primarily for presentation, not discussion. While there is no time limit or censorship on comments, Council members should take into consideration the total time available in the meeting for the published agenda and the time allocated for the specific item in the agenda.

Any Council member may present resolutions. They are reviewed by the Town Attorney and require a motion and a vote.

#### Rules of Civility for Public Participation

The Town of Fort Myers Beach Town Council recognizes that public discourse is essential to the democratic system of government. It also embraces civility in public deliberations. Rules for public participation while conducting meetings and workshops are as follows:

1. Speakers are permitted to deliver his or her comments without interruption, absent inappropriate language, conduct or personal attacks.
2. Speakers and debates should focus on issues, not on persons or personalities.
3. Persons are encouraged to participate in the governmental process
4. To allow time to hear all points of view, speakers are allotted 3 minutes
5. Sidebar discussions while others are speaking are discouraged in Council Chambers. These discussions are to be removed from the chambers so as not to be disruptive to those conducting and following Council business.
6. Only the speaker recognized by the Chairperson has the floor. Speakers should identify themselves for the record. Speakers should utilize the microphone so that their comments can be recorded.
7. We seek to understand one another's points of view.

8. Anger, rudeness, ridicule, impatience and lack of respect for others are not acceptable behavior. Demonstrations in support or opposition to a speaker or idea such as clapping, cheering, booing or hissing or intimidating body language are not permitted in Council Chambers or workshop facilities.
9. We should all take initiative to make things better. Our goal is to foster an environment which encourages a fair discussion and exchange of ideas without fear of personal attacks.
10. No use of profanity will be tolerated.

#### Minutes

Notes will be taken of all meetings and work sessions. The notes are then transcribed into summary minutes that become the written record of subjects discussed, conclusions reached, actions taken and assignments given. The minutes include the names of all those participating in the meeting including Council members, staff, the Town Attorney, applicants, their attorneys and witnesses, and people who offer public comments. The minutes also serve as a record of motions and votes on all Council decisions.

Once completed, the minutes are provided to Council members for approval at their next meeting. The approval of the minutes is intended for Council members to accurately document the proceedings of the Town Council. Before moving approval the minutes should be amended, if necessary, to more accurately portray what occurred at a Council meeting. This time is not intended for comment or discussion on what should have or should not have been done, but rather to document what actually was done. Once approved by Council, the original is filed in a secure file and a copy is placed on the Town's web page.

Video and/or audio recordings when made are available at the request of the public or anyone who wishes to listen to the meeting or a portion of the meeting. The original video and audio recordings are stored in a secured area for safekeeping. Any request for production of a verbatim transcript, in whole or in part, of any meeting, workshop or other function of the Town Council or any Town committee thereof by Town staff or paid for by the Town shall require prior consent of the Town Council, except for such requests as are initiated by a court of competent jurisdiction or quasi-judicial officer in the proper exercise of its powers. Video and audio recordings are only the legal record in the absence of approved minutes.

#### Council Members Items and Reports

Items and Reports time is set aside for Council Members to report on activities of interest to fellow members, staff and the public. Council Members are encouraged to send as much information as possible prior to the meeting. Unless an issue is time sensitive, the item will be placed on a future agenda if a vote is required.

#### Agenda Management

The Town Manager is responsible for compiling and distributing a schedule of future meetings and work sessions.

#### Action List

The Town Manager is responsible for compiling and distributing a list of action items that includes a short status and expected date of completion.

#### How Voting Order is Established for Roll Call Votes

The voting order for calling the roll on Town Council votes shall be conducted at the direction of the Town Clerk.

Votes on ordinances require a roll call vote; any Council member may call for a roll call vote on any motion before the Council.



## Voting Conflicts

Florida Statute has very specific rules regarding voting conflicts

If a Town Council member has a voting conflict, he/she must disclose that conflict in writing prior to the meeting in question and this disclosure must be publicly read. A form is available from the Town Clerk.

The rules also contain an exception for disclosure at the meeting itself. A Town Council member is permitted to participate in the discussion, but cannot vote on the subject. The specific rules are set out in

F.S. 112.3143(3)(a), as amended, quoted below:

(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

NOTE: F.S. 112.3143(b) defines "relative" as follows: "any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law."

## Guidelines for Legislative Hearing Procedures

1. The Chair opens the hearing
2. Staff presents Affidavit of Publication or copy of the legal advertisement from the newspaper of record when available, which shall become an exhibit to the hearing's resulting resolution.
3. The Chair or Town Attorney reads the ordinance caption
4. Staff and/or the Town Attorney present(s) a brief overview of the ordinance
5. Public input is taken
6. Public input is closed
7. Town Council members ask questions, if any, of staff/Town Attorney
8. Town Council members discuss ordinance, including changes, deletions, etc.
9. A motion is made and seconded to either pass the ordinance as is, or with modifications, or to take some other action.
10. The motion is discussed and voted upon, with roll call voting as appropriate. Upon consideration and passage of all appropriate motions, the Chair declares the hearing on the ordinance to be concluded, continued, tabled, or other action in conformity with the motion.

Notes: There is no ex parte disclosure for legislative hearings.

Members of the public are not sworn in.

Generally there is no discussion between Town Council and public.

The above is intended as a guide and the Council may conduct the legislative hearing utilizing another procedure, so long as due process requirements are met.

## Guidelines for Quasi-Judicial Land Use Hearing

1. The Chair opens the hearing.
2. Staff present Affidavit of Publication or copy of the legal advertisement from the newspaper of record when available, which shall become an exhibit to the hearing's resulting resolution.

3. The Chair asks if any Council member has had an ex parte communication regarding this matter. This includes any site visit, receipt of expert opinion, conducting of investigations, discussions with any person, or any direct or indirect communication in any form with any person outside a public hearing and not on the record. See section 34-52 of the Land Development Code.
4. All witnesses are sworn in. This includes Town staff, applicant and applicant's representatives, and anyone who wishes to make public comment on this case. All persons are requested to state their name for the record when they address the Council.
5. The applicant presents its case.
6. Town Council may ask clarification questions of applicant. \*
7. Local Planning Agency representative, if available, presents LPA recommendation. Town Council may ask clarification questions of the LPA representative.
8. Public comment/testimony is opened. At its conclusion, the Chair closes the public comment/testimony portion of the hearing.
9. Applicant presents rebuttal, if any. Town Council may ask detailed informational questions of applicant. \*\*
10. Staff presents rebuttal, if any. Town Council may ask detailed informational questions of staff. \*\*
11. The testimony portion of the hearing is closed, and Council discussion starts.
12. Council votes on a resolution or takes other action.
13. The hearing is closed or continued, or other action is taken in conformity with the successful motion, and the time of closure is verbally noted for the record.

\*Council has determined that these Council questions are to clarify the applicant's and staff's presentations of factual information and are intended to be short Qs and As.

\*\*Council has determined that these Council questions are to discuss detailed, substantive matters involving the application.

NOTE: The above is intended as a guide and the Council may conduct the quasi-judicial hearing utilizing another procedure, so long as due process requirements are met.

If new evidence is submitted prior to or at a Town Council hearing for a quasi-judicial matter subsequent to the final LPA hearing, Town Council can choose to:

1. Send the matter back to the LPA for review and recommendation.
2. To continue the hearing to provide sufficient time for the staff and Town Attorney to make recommendations; or
3. To complete the hearing if agreeable to the staff and Town Attorney.

## **8. Reimbursement Procedures**

### **Travel Expenses**

It is the desire of the Town of Fort Myers Beach that Town Council members be reimbursed for certain expenses incurred while traveling on Town business. Appropriate allowances, funds and procedures are documented in the Town Personnel Manual.

### **Business Expenses**

From time to time it may be necessary for members of Town Council to entertain various Federal, State and County officials while transacting official Town business. Such business expenses would normally

include lunches and/or dinners. A Direct Expense Voucher may be submitted for reimbursement and must be signed by the person requesting reimbursement, and the Town Manager. Invoices must be attached as supporting documentary evidence.

#### Educational Reimbursement

The Educational Reimbursement Program is used to encourage Town Council members to improve their knowledge and skills needed for the Town's effectiveness. Reimbursement conditions, forms and procedures are documented in the Town Personnel Manual.

### **9. Council Communications Policy and Processing Procedures**

#### Council Communications Policy

Any communication by individual council members to the media, other governmental agencies, or in public forums should, as clearly as possible, distinguish between personal opinions and actions or direction taken by Town Council. This policy in no way means to censor viewpoints or restrict individual rights, but is solely suggested to preserve the integrity of the Council, staff, and the Town.

#### Mail Processing Procedures

Mail for the Town should be addressed to the current address.

All mail is opened stamped and distributed. (It is all public record)

Council mail is given to the Administrative Assistant to log and process. Any Council mail that needs a prompt or detailed answer is pulled, copied, and a draft response is prepared for review, usually by the Mayor. The original is distributed, along with other mail; with a note stating a draft response is being prepared. When the response is finalized, it is copied and distributed to all Council members for reading at their leisure.

#### Communications With Potential Applicants for Zoning and Communications With Vendors or Service Providers

Section 34-52 of the Town's Land Development Code specifies regulations regarding communications with public officials in non-quasi judicial matters and ex parte communications with public officials in quasi-judicial matters.

### **10. Non-Discrimination and Harassment**

#### Policies

These policies are documented in the Town Personnel Manual

